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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/807,947

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Marc Radow

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EXAMINER

WEINSTEIN, STEVEN L

ART UNIT

PAPER NUMBER

1761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/807,947

Applicant(s)

RADOW, MARC

Examiner

Steven L. Weinstein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1/12/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 17, 19-25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albert (2004/0033293).

In regard to claim 16, Albert discloses a composition comprising a liquid sweetener such as corn syrup and water, wherein the composition would be capable of being applied to a rim of a beverage container. Although the surfactant and viscosity/texture modifier are both listed as being present in the amount of 0%, and thus not present, Albert also discloses the composition can include a polysaccharide, such as a gum, which would be a viscosity/texture modifier. In regard to claims 20-22, the particular viscosity selected is seen to have been an obvious result effective variable, routinely determinable. In regard to claim 19, which recites corn syrup and sugar, since Albert discloses using corn syrup and sugar, to employ both as both binders and sweeteners is seen to have been an obvious result effective variable. In regard to claim 32, Albert discloses gum.

Claims 18, 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 16 plus above, and further in view of Maegli (5,298,268), Chen et al (2004/0109932), Schleider (WO 99/09871), Emig (2004/0005385), Rhode et al (2002/0062741), Fiorella (3,824,322), Holloway et al (4,828,858), and Hoover (4,647,463).

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In regard to claim 18, Maegli discloses it was notoriously conventional to include alcohol compounds in an adhesive/film composition. These compounds inherently act as a surfactant. To modify Albert and include an alcohol for its art recognized and applicant's intended function in an adhesive/binder/coating environment would therefore have been obvious. Chen et al, Schleider, Emig, Rhode et al, Fiorella, Holloway et al and Hoover are relied on as further evidence of film/adhesive/binding compositions including surfactants, plasticizers, and bulking agents such as polysorbate, propylene glycol and gums, respectively (as taught, e.g., by Chen et al); adhesives including alcohols, starches and sugars (Schleider); film compositions including water, polysaccharide (e.g. gum), vegetable oil, and emulsifier (Emig); the use of water and/or alcohol in a film composition (Rohde et al); the use of sugar, corn syrup and gums as a carrier and water, ethanol and glycerol as plasticizers and solvents (Fiorella); the use of corn syrup sugar water and gum as an adhesive film composition for a granular coating (Holloway et al); and the use of an adhesive film composition for a powder coating comprising sugar, vegetable oil, water, monoglyceride and lecithin (Hoover). Thus, the art taken as a whole clearly evidences the fact that it was well established to provide compositions for film forming (and binding particulates thereto) wherein the compositions were not just water or a juice, but ingredients that were more binding than just water or naturally occurring liquids per se, and that applicants recited ingredients are all notoriously well known ingredients in film/adhesive/bonding compositions and that applicants ingredients are being employed for their well known and intended function.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 33, and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoover.

In regard to claims 33 and 39, the composition of Hoover contains a hydrophilic and lipophilic ingredients, and a surfactant (monoglyceride), and sugar, and would be capable of being applied to a rim of a beverage container.

Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoover in view of Rohde et al who teaches it would have been obvious to employ water and alcohol in a film composition. In regard to claim 35, Hoover discloses the recited concentration of surfactant.

Claims 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoover. The particular vegetable oil one chooses to have used is seen to have been an obvious result effective variable, routinely determinable. Note that claim 37 is a duplicate of claim 36 and appears to have been inadvertently made dependent on claim 36. In regard to claim 38, claim 38 recites that the "film" further includes citric acid. The specification does not appear to disclose the reason the citric acid is added. Citric acid is a notoriously conventional food acidulant that is used in the food art as both a flavoring and as a preservative due to the fact it can reduce the pH of a composition it is

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added to. To modify Hoover and add citric acid for modifying flavor or for its role as a preservative, would therefore have been obvious.

It is noted that the preamble of the claims recite a "film", but it would appear that the composition only becomes a film when it has been applied to a surface. Clarification and/or correction is requested.

The remainder of the references cited on the PTO 892 form are cited as art of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L. Weinstein whose telephone number is 571-272-1410. The examiner can normally be reached on Monday-Friday 7:00 A.M.-2:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Steve Weinstein*  
STEVE WEINSTEIN  
PRIMARY EXAMINER 1761  
4/9/09